

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 643

Introduced by Senator McGuire

February 27, 2015

~~An act relating to medical marijuana.~~ *An act to amend Section 2220.05 of, to add Article 25 (commencing with Section 2525) to Chapter 5 of Division 2 of, and to add Part 5 (commencing with Section 18100) to Division 7 of, the Business and Professions Code, to add Section 23028 to the Government Code, and to amend Section 11362.775 of, and to add Article 8 (commencing with Section 111658) to Chapter 6 of Part 5 of Division 104 of, the Health and Safety Code, relating to medical marijuana, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 643, as amended, McGuire. Medical marijuana.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would establish within the Department of Consumer Affairs a Bureau of Medical Marijuana Regulation, under the supervision and

control of the Chief of the Bureau of Medical Marijuana Regulation, and would require the bureau to license and regulate dispensing facilities, cultivation sites, transporters, and manufacturers of medical marijuana and medical marijuana products, subject to local ordinances. The bill would require a background check of applicants for licensure, as defined, to be administered by the Department of Justice, and submission of a statement signed by an applicant, under penalty of perjury, that the information on his or her application is true, thereby creating a crime and imposing a state-mandated local program. Violation of the provisions related to applying for a conditional license would be punishable by a civil fine of up to \$35,000 for each individual violation, or as otherwise specified.

The bill would make conditional licenses subject to the restrictions of the local jurisdiction in which the facility operates or proposes to operate. The bill would authorize a facility or entity that is operating in conformance with local zoning ordinances and other state and local requirements on January 1, 2016, to continue its operations until its application for conditional licensure is approved or denied. The bill would set forth provisions related to the transportation, testing, and distribution of medical marijuana. The bill would prohibit the distribution of any form of advertising for physician recommendations for medical marijuana, unless the advertisement bears a specified notice and requires that the advertisement meet specified requirements and not be fraudulent, deceitful, or misleading.

The bill would establish the Medical Marijuana Regulation Fund and would require the deposit of specified fees collected pursuant to this act into the fund. The bill would continuously appropriate moneys from the fund to the bureau for the purposes of administering this act, thereby making an appropriation. The bill would also establish the Special Account for Environmental Enforcement within the Medical Marijuana Fund. This account would contain money from fees assessed against licensed cultivation sites and would be continuously appropriated for the enforcement of environmental regulations relating to licensed cultivation sites. The bill would require the deposit of penalty moneys collected pursuant to this bill into the General Fund.

The bill would ban cultivation sites in areas zoned residential and would require, among other things, that all marijuana grown, produced, distributed, and sold in the state meet the certified organic standards by January 1, 2022, and that the bureau establish “appellations of origin” for marijuana grown in the state.

The bill would provide that it shall not supersede provisions of Measure D, as approved by the voters of the City of Los Angeles, or other similar measures, as specified.

The bill would authorize a city, county, or city and county to administer and enforce these provisions. The bill would require the bureau to establish quality assurance protocols by January 1, 2018, to ensure uniform testing standards of medical marijuana, and would require licensees to comply with these provisions. The bill would further set forth provisions regulating edible medical marijuana products, as specified. By adding these provisions to the Sherman Food, Drug, and Cosmetic Law, a violation of which is a crime, the bill would impose a state-mandated local program.

(2) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to prioritize investigations and prosecutions of physicians and surgeons representing the greatest threat of harm, as specified. Existing law identifies the cases that are to be given priority, which include cases of repeated acts of excessively prescribing, furnishing, or administering controlled substances without a good faith prior examination of the patient. Existing law provides that a violation of the Medical Practice Act is a crime.

This bill would require the board to consult with the Center for Medicinal Cannabis Research on developing and adopting medical guidelines for the appropriate administration and use of marijuana.

The bill would also make it a misdemeanor for a physician and surgeon who recommends marijuana to a patient for a medical purpose to accept, solicit, or offer any remuneration from or to a licensed dispensing facility in which the physician and surgeon or his or her immediate family has a financial interest. By creating a new crime, the bill would impose a state-mandated local program.

The bill would provide that specified acts of recommending marijuana for medical purposes without a good faith examination are among the types of cases that should be given priority for investigation and prosecution by the board, as described above. The bill would further prohibit a physician and surgeon from recommending medical marijuana to a patient unless that person is the patient's attending physician, as defined. Because a violation of that provision would be a crime, the bill would impose a state-mandated local program.

(3) Existing law authorizes the legislative body of a city or county to impose various taxes, including a transactions and use tax at a rate

of 0.25%, or a multiple thereof, if approved by the required vote of the legislative body and the required vote of qualified voters, and limits the combined rate of transactions and use taxes within a city or county to 2%.

This bill would authorize the board of supervisors of a county or the city council of a city to impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or products containing marijuana. The bill would authorize the tax to be imposed for either general or specific governmental purposes. The bill would require a tax imposed pursuant to this authority to be subject to any applicable voter approval requirement.

(4) Existing law exempts qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards from certain crimes, including possession of concentrated cannabis and marijuana, cultivation of marijuana, and possession of marijuana for sale.

This bill would also exempt from those crimes an employee, officer, or board member of a licensed cultivation site or a licensed dispensing facility, except as specified.

(5) Existing law imposes sales and use taxes, as specified, to be collected by the State Board of Equalization.

This bill would require the State Board of Equalization, on or before July 1, 2016, to compile a report that includes the actual tax collected on the sale of medical marijuana, using the most current data available, and the expected tax revenues, under the existing tax structure, for the years 2016 to 2021, inclusive, and to submit that report to the Legislature and Governor's Office.

(6) This bill would provide that its provisions are severable.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the voters at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature, commonly referred to as the Medical Marijuana Program Act, requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use.~~

~~This bill would express the Legislature’s intent to enact legislation that would, among other things, reaffirm and clarify aspects of the Medical Marijuana Program Act, regulate the cultivation of medical marijuana, and authorize and appropriate adequate funding for the Board of Equalization to undertake a study, as specified, in order to make recommendations on the best way to levy and collect fees to regulate the cultivation and sale of medical marijuana.~~

~~Vote: majority. Appropriation: no-yes. Fiscal committee: no yes. State-mandated local program: no-yes.~~

The people of the State of California do enact as follows:

1 SECTION 1. *This act shall be known, and may be cited, as the*
2 *Medical Marijuana Public Safety and Environmental Protection*
3 *Act.*

4 SEC. 2. *The Legislature finds and declares all of the following:*

5 (a) *In 1996, the people of the State of California enacted the*
6 *Compassionate Use Act of 1996, codified in Section 11362.5 of*
7 *the Health and Safety Code. The people of the State of California*
8 *declared that their purpose in enacting the measure was, among*
9 *other things, “to ensure that seriously ill Californians have the*
10 *right to obtain and use marijuana for medical purposes where that*
11 *medical use is deemed appropriate and has been recommended*
12 *by a physician who has determined that the person’s health would*
13 *benefit from the use of marijuana in the treatment of cancer,*
14 *anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis,*
15 *migraine, or any other illness for which marijuana provides relief.”*

16 (b) *The Compassionate Use Act of 1996 called on state*
17 *government to implement a plan for the safe and affordable*

1 *distribution of marijuana to all patients in medical need of*
2 *marijuana, while ensuring that nothing in that act would be*
3 *construed to condone the diversion of marijuana for nonmedical*
4 *purposes.*

5 *(c) In 2003, the Legislature enacted the Medical Marijuana*
6 *Program Act (MMPA), codified in Article 2.5 (commencing with*
7 *Section 11362.7) of Chapter 6 of Division 10 of the Health and*
8 *Safety Code.*

9 *(d) Greater certainty and minimum statewide standards are*
10 *urgently needed regarding the obligations of medical marijuana*
11 *facilities, and for the imposition and enforcement of regulations*
12 *to prevent unlawful cultivation and the diversion of marijuana to*
13 *nonmedical use.*

14 *(e) Despite the passage of the Compassionate Use Act of 1996*
15 *and the MMPA, because of the lack of an effective statewide system*
16 *for regulating and controlling medical marijuana, cities, counties,*
17 *and local law enforcement officials have been confronted with*
18 *uncertainty about the legality of some medical marijuana*
19 *cultivation and distribution activities. The current state of affairs*
20 *makes law enforcement difficult and endangers patient safety*
21 *because of an inability to monitor the supply of medical marijuana*
22 *in the state and the lack of quality control, testing, and labeling*
23 *requirements.*

24 *(f) The California Constitution grants cities and counties the*
25 *authority to make and enforce, within their borders, “all local*
26 *police, sanitary, and other ordinances and regulations not in*
27 *conflict with the general laws.” This inherent local police power*
28 *includes broad authority to determine, for purposes of public*
29 *health, safety, and welfare, the appropriate uses of land within the*
30 *local jurisdiction’s borders. The police power, therefore, allows*
31 *each city and county to determine whether or not a medical*
32 *marijuana dispensary or other facility that makes medical*
33 *marijuana available may operate within its borders. This authority*
34 *has been upheld by City of Riverside v. Inland Empire Patients*
35 *Health and Wellness Center, Inc. (2013) 56 Cal.4th 729 and*
36 *County of Los Angeles v. Hill (2011) 192 Cal.App.4th 861. Nothing*
37 *in this act shall diminish, erode, or modify that authority.*

38 *(g) If a city or county determines that a dispensary or other*
39 *facility that makes medical marijuana available may operate within*
40 *its borders, then there is a need for the state to license these*

1 *dispensaries and other facilities for the purpose of adopting and*
2 *enforcing protocols for security standards at dispensaries and in*
3 *the transportation of medical marijuana, as well as health and*
4 *safety standards to ensure patient safety. This licensing*
5 *requirement is not intended in any way nor shall it be construed*
6 *to preempt local ordinances, regulations, or enforcement actions*
7 *regarding the sale and use of medical marijuana, including, but*
8 *not limited to, security, signage, lighting, and inspections.*

9 *(h) Greater oversight, uniformity, and enforcement are urgently*
10 *needed regarding the obligations and rights of medical marijuana*
11 *cultivators, transporters, and distribution facilities.*

12 *(i) Marijuana has widely accepted medical applications that*
13 *make it inappropriate to be classified as a Schedule I controlled*
14 *substance in the State of California.*

15 *(j) For the protection of Californians, the state must act to*
16 *regulate and control medical marijuana and not preempt local*
17 *government ordinances. Cities and counties should be allowed to*
18 *impose local taxes and enact zoning regulations and other*
19 *restrictions applicable to the cultivation, transportation, and*
20 *distribution of medical marijuana based on local needs.*

21 *(k) For the protection of California's environment and its*
22 *natural resources, all efforts must be made to prevent and mitigate*
23 *the harmful environmental impacts that can be associated with*
24 *some marijuana cultivation.*

25 *(l) The North Coast Regional Water Quality Control Board is*
26 *currently in the process of promulgating regulations that would*
27 *create a 3-tiered system for cultivator wastewater discharge*
28 *permits. A similar permitting system would assist the state in*
29 *controlling damaging wastewater runoff from cultivation sites,*
30 *while minimizing the burden on smaller cultivators.*

31 *(m) Nothing in this act shall have a diminishing effect on the*
32 *rights and protections granted to a patient or primary caregiver*
33 *pursuant to the Compassionate Use Act of 1996.*

34 *(n) Nothing in this act shall be construed to promote or facilitate*
35 *the nonmedical, recreational possession, sale, or use of marijuana.*

36 *SEC. 3. Section 2220.05 of the Business and Professions Code*
37 *is amended to read:*

38 *2220.05. (a) In order to ensure that its resources are maximized*
39 *for the protection of the public, the Medical Board of California*
40 *shall prioritize its investigative and prosecutorial resources to*

1 ensure that physicians and surgeons representing the greatest threat
2 of harm are identified and disciplined expeditiously. Cases
3 involving any of the following allegations shall be handled on a
4 priority basis, as follows, with the highest priority being given to
5 cases in the first paragraph:

6 (1) Gross negligence, incompetence, or repeated negligent acts
7 that involve death or serious bodily injury to one or more patients,
8 such that the physician and surgeon represents a danger to the
9 public.

10 (2) Drug or alcohol abuse by a physician and surgeon involving
11 death or serious bodily injury to a patient.

12 (3) Repeated acts of clearly excessive prescribing, furnishing,
13 or administering of controlled substances, or repeated acts of
14 prescribing, dispensing, or furnishing of controlled ~~substances~~
15 *substances, or recommending marijuana to patients for medical*
16 *purposes*, without a good faith prior examination of the patient
17 and medical reason therefor. However, in no event shall a physician
18 and surgeon prescribing, furnishing, or administering controlled
19 substances for intractable pain consistent with lawful prescribing,
20 including, but not limited to, Sections 725, 2241.5, and 2241.6 of
21 this code and Sections 11159.2 and 124961 of the Health and
22 Safety Code, be prosecuted for excessive prescribing and prompt
23 review of the applicability of these provisions shall be made in
24 any complaint that may implicate these provisions.

25 (4) Sexual misconduct with one or more patients during a course
26 of treatment or an examination.

27 (5) Practicing medicine while under the influence of drugs or
28 alcohol.

29 (b) The board may by regulation prioritize cases involving an
30 allegation of conduct that is not described in subdivision (a). Those
31 cases prioritized by regulation shall not be assigned a priority equal
32 to or higher than the priorities established in subdivision (a).

33 (c) The Medical Board of California shall indicate in its annual
34 report mandated by Section 2312 the number of temporary
35 restraining orders, interim suspension orders, and disciplinary
36 actions that are taken in each priority category specified in
37 subdivisions (a) and (b).

38 *SEC. 4. Article 25 (commencing with Section 2525) is added*
39 *to Chapter 5 of Division 2 of the Business and Professions Code,*
40 *to read:*

Article 25. *Recommending Medical Marijuana*

2525. (a) *It is unlawful for a physician and surgeon who recommends marijuana to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a conditional license pursuant to Part 5 (commencing with Section 18100) of Division 7, if the physician and surgeon or his or her immediate family have a financial interest in that facility.*

(b) *For the purposes of this section, “financial interest” shall have the same meaning as in Section 650.01.*

(c) *A violation of this section shall be a misdemeanor.*

2525.1. *The Medical Board of California shall consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, on developing and adopting medical guidelines for the appropriate administration and use of medical marijuana.*

2525.2. *A physician and surgeon shall not recommend medical marijuana to a patient, unless that person is the patient’s attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.*

SEC. 5. *Part 5 (commencing with Section 18100) is added to Division 7 of the Business and Professions Code, to read:*

PART 5. MEDICAL MARIJUANA

CHAPTER 1. GENERAL PROVISIONS

18100. *For purposes of this part, the following definitions shall apply:*

(a) *“Bureau” means the Bureau of Medical Marijuana Regulation in the Department of Consumer Affairs.*

(b) *“Certified testing laboratory” means a laboratory that is certified by the bureau to perform random sample testing of medical marijuana pursuant to the certification standards for these facilities promulgated by the bureau.*

(c) *“Chief” means the Chief of the Bureau of Medical Marijuana Regulation.*

1 (d) “Department” means the Department of Consumer Affairs.

2 (e) “Director” means the Director of Consumer Affairs.

3 (f) “Dispensary” means a distribution operation that provides
4 medical marijuana or medical marijuana derived products to
5 patients and caregivers.

6 (g) “Fund” means the Medical Marijuana Regulation Fund
7 established pursuant to Section 18118.

8 (h) “Licensed cultivation site” means a facility that plants,
9 grows, cultivates, harvests, dries, or processes medical marijuana
10 and that is issued a conditional license pursuant to this part.

11 (i) “Licensed dispensing facility” means a dispensary or other
12 facility that provides medical marijuana, medical marijuana
13 products, or devices for the use of medical marijuana or medical
14 marijuana products that is issued a conditional license pursuant
15 to this part.

16 (j) “Licensed manufacturer” means a person who extracts,
17 prepares, derives, produces, compounds, or repackages medical
18 marijuana or medical marijuana products into consumable and
19 nonconsumable forms and that is issued a conditional license
20 pursuant to this part.

21 (k) “Licensed transporter” means an individual or entity issued
22 a conditional license by the bureau to transport medical marijuana
23 to and from facilities that have been issued conditional licenses
24 pursuant to this part.

25 (l) “Marijuana” means all parts of the plant *Cannabis sativa*,
26 *cannabis indica*, or *cannabis ruderalis*, whether growing or not;
27 the seeds thereof; the resin, whether crude or purified, extracted
28 from any part of the plant; and every compound, manufacture,
29 salt, derivative, mixture, or preparation of the plant, its seeds, or
30 resin. “Marijuana” does not include the mature stalks of the plant,
31 fiber produced from the stalks, oil or cake made from the seeds of
32 the plant, any other compound, manufacture, salt, derivative,
33 mixture, or preparation of the mature stalks (except the resin
34 extracted therefrom), fiber, oil, or cake, or the sterilized seed of
35 the plant which is incapable of germination. “Marijuana” also
36 means marijuana, as defined by Section 11018 of the Health and
37 Safety Code.

38 (m) “Trespass grows” means illicit marijuana cultivation on
39 public or private land without the explicit permission of the land
40 owner.

1 18101. (a) There is hereby created in the Department of
2 Consumer Affairs the Bureau of Medical Marijuana Regulation,
3 under the supervision and control of the Chief of the Bureau of
4 Medical Marijuana Regulation.

5 (b) Protection of the public shall be the highest priority for the
6 bureau in exercising its licensing, regulatory, and disciplinary
7 functions. Whenever the protection of the public is inconsistent
8 with other interests sought to be promoted, the protection of the
9 public shall be paramount.

10 (c) The bureau shall have the authority to issue, suspend, or
11 revoke conditional licenses for the cultivation, manufacture,
12 transportation, storage, distribution, and sale of medical marijuana
13 within the state and to collect fees in connection with these actions.
14 The bureau shall have the authority to create, issue, suspend, or
15 revoke other licenses in order to protect patient health and the
16 public and to facilitate the regulation of medical marijuana.

17 (d) The Governor shall appoint the chief at a salary to be fixed
18 and determined by the director with the approval of the Director
19 of Finance. The chief shall serve in accordance with the State Civil
20 Service Act (Part 2 (commencing with Section 18500) of Division
21 5 of Title 2 of the Government Code).

22 (e) The duty of enforcing and administering this part shall be
23 vested in the chief, who is responsible to the director. The chief
24 may adopt and enforce those rules and regulations that he or she
25 determines are reasonably necessary to carry out the purposes of
26 this part and declaring the policy of the bureau, including a system
27 for the issuance of citations for violations of this part, as specified
28 in Section 18126.

29 (f) The chief, as necessary to carry out the provisions of this
30 part, and in accordance with the State Civil Service Act (Part 2
31 (commencing with Section 18500) of Division 5 of Title 2 of the
32 Government Code), may appoint and fix the compensation of
33 personnel, including, but not limited to, clerical, inspection,
34 investigation, and auditing personnel, as well as an assistant chief.
35 These personnel shall perform their respective duties under the
36 supervision and the direction of the chief.

37 (g) Every power granted to, or duty imposed upon, the chief
38 under this part may be exercised or performed in the name of the
39 chief by a deputy or assistant chief, subject to conditions and
40 limitations that the chief prescribes.

1 (h) *The bureau shall exercise its authority pursuant to this part*
2 *consistent with Section 1 of the act that added this section and*
3 *consistent with the provisions of this part.*

4 18102. *Funds for the establishment and support of the bureau*
5 *shall be advanced as a loan by the department and shall be repaid*
6 *by the initial proceeds from fees collected pursuant to this part or*
7 *any rule or regulation adopted pursuant to this part.*

8 18103. *The bureau shall have the authority necessary for the*
9 *implementation of this part, including, but not limited to, all of the*
10 *following:*

11 (a) *Establishing rules or regulations necessary to carry out the*
12 *purposes and intent of this part and to enable the bureau to*
13 *exercise the powers and perform the duties conferred upon it by*
14 *this part and in accordance with Chapter 3.5 (commencing with*
15 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
16 *Code. For the performance of its duties, the bureau has the powers*
17 *as set forth in Article 2 (commencing with Section 11180) of*
18 *Chapter 2 of Part 1 of Division 3 of Title 2 of the Government*
19 *Code.*

20 (b) *Issuing conditional licenses to persons for the cultivation,*
21 *manufacture, transportation, storage, distribution, and sale of*
22 *medical marijuana within the state.*

23 (c) *Setting application, licensing, and renewal fees for*
24 *conditional licenses issued pursuant to Section 18117.*

25 (d) *Establishing standards for the cultivation, manufacturing,*
26 *transportation, storage, distribution, provision, donation, and sale*
27 *of medical marijuana and medical marijuana products.*

28 (e) *Establishing procedures for the issuance, renewal,*
29 *suspension, denial, and revocation of conditional licenses.*

30 (f) *Imposing a penalty authorized by this part or any rule or*
31 *regulation adopted pursuant to this part.*

32 (g) *Taking action with respect to an application for a conditional*
33 *license in accordance with procedures established pursuant to this*
34 *part.*

35 (h) *Overseeing the operation of the Medical Marijuana*
36 *Regulation Fund and the Special Account for Environmental*
37 *Enforcement, established pursuant to Section 18118.*

38 (i) *Consulting with other state or local agencies, departments,*
39 *representatives of the medical marijuana community, or public or*

1 *private entities for the purposes of establishing statewide standards*
2 *and regulations.*

3 *(j) Certifying laboratories to perform testing of medical*
4 *marijuana.*

5 *18104. (a) On or before January 1, 2018, the bureau shall*
6 *promulgate regulations for implementation and enforcement of*
7 *this part, including, but not limited to, all of the following:*

8 *(1) Procedures for the issuance, renewal, suspension, denial,*
9 *and revocation of conditional licenses.*

10 *(2) Procedures for appeal of fines and the appeal of denial,*
11 *suspension, or revocation of conditional licenses.*

12 *(3) Application, licensing, and renewal forms and fees.*

13 *(4) A time period in which the bureau shall approve or deny an*
14 *application for a conditional license pursuant to this part.*

15 *(5) Qualifications for licensees.*

16 *(6) Standards for certification of testing laboratories to perform*
17 *random sample testing of all medical marijuana products,*
18 *including standards for onsite testing.*

19 *(A) Certification of testing laboratories shall be consistent with*
20 *general requirements for the competence of testing and calibration*
21 *activities, including sampling, using standard methods established*
22 *by the International Organization for Standardization, specifically*
23 *ISO/IEC 17025.*

24 *(B) These requirements shall apply to all entities, including*
25 *third-party laboratories, engaged in the testing of medical*
26 *marijuana pursuant to this part.*

27 *(7) Requirements to ensure conformance with standards*
28 *analogous to state statutory environmental, agricultural, consumer*
29 *protection, and food and product safety requirements. At a*
30 *minimum, these standards shall do all of the following:*

31 *(A) Prescribe sanitation standards analogous to the California*
32 *Retail Food Code (Part 7 (commencing with Section 113700) of*
33 *Division 104 of the Health and Safety Code) for food preparation,*
34 *storage, handling, and sale of edible medical marijuana products.*

35 *(B) Require that edible medical marijuana products produced,*
36 *distributed, provided, donated, or sold by licensees shall be limited*
37 *to nonpotentially hazardous food, as established by the State*
38 *Department of Public Health pursuant to Section 114365.5.*

39 *(C) Require that facilities in which edible medical marijuana*
40 *products are prepared shall be constructed in accordance with*

1 applicable building standards, health and safety standards, and
2 other state laws.

3 (D) Provide that weighing or measuring devices used in
4 connection with the sale or distribution of medical marijuana are
5 required to meet standards analogous to Division 5 (commencing
6 with Section 12001).

7 (E) Require that the application of pesticides or other pest
8 control in connection with the indoor or outdoor cultivation of
9 medical marijuana shall meet standards analogous to Division 6
10 (commencing with Section 11401) of the Food and Agricultural
11 Code and its implementing regulations.

12 (b) On or before July 1, 2017, the bureau shall also promulgate
13 regulations for minimum statewide health and safety standards
14 and quality assurance standards associated with the cultivation,
15 transport, storage, manufacture, and sale of all medical marijuana
16 produced in this state. Consistent with Section 18126, local
17 agencies shall have primary responsibility for enforcement of these
18 standards in accordance with bureau regulations.

19 (c) The bureau, in consultation with the Division of Labor
20 Standards Enforcement, shall adopt regulations establishing
21 worker safety standards for entities licensed pursuant to this part.

22 (d) The bureau, in consultation with the State Water Resources
23 Control Board, shall adopt regulations to ensure that commercial
24 medical marijuana activity licensed pursuant to this part does not
25 threaten the state's environment and watersheds and is otherwise
26 in conformance with the California Environmental Quality Act.

27 (e) The bureau shall not issue a conditional license unless the
28 applicant has met all of the requirements of this part, including
29 the requirements of paragraph (4) of subdivision (d) of Section
30 18110.

31 18105. The chief shall keep a complete record of all facilities
32 issued a conditional license. This record shall be made available
33 on the bureau's Internet Web site.

34 18106. The bureau shall establish procedures to provide state
35 and local law enforcement, upon their request, with 24-hour access
36 to information to verify a conditional license, track transportation
37 manifests, and track the inventories of facilities issued a conditional
38 license.

39 18107. This part shall in no way supersede the provisions of
40 Measure D, approved by the voters of the City of Los Angeles on

1 *the May 21, 2013, ballot for the city, or any similar measure in*
2 *other jurisdictions, which grants medical marijuana businesses*
3 *and dispensaries qualified immunity consistent with the terms of*
4 *the measure and local ordinances. Notwithstanding the provisions*
5 *of this part, marijuana businesses and dispensaries subject to the*
6 *provisions of Measure D or other similar qualified immunity shall*
7 *continue to be subject to the ordinances and regulations of the*
8 *relevant local jurisdiction.*

9
10 *CHAPTER 2. CONDITIONAL LICENSES*

11
12 *18108. The following persons are exempt from the requirement*
13 *of licensure under this part:*

14 *(a) A patient who cultivates, possesses, stores, manufactures,*
15 *or transports marijuana exclusively for his or her personal medical*
16 *use and who does not sell, distribute, donate, or provide marijuana*
17 *to any other person or entity.*

18 *(b) A primary caregiver who cultivates, possesses, stores,*
19 *manufactures, transports, or provides marijuana exclusively for*
20 *the personal medical purposes to no more than five specified*
21 *qualified patients for whom he or she is the primary caregiver*
22 *within the meaning of Section 11362.7 of the Health and Safety*
23 *Code and who does not receive remuneration for these activities,*
24 *except for compensation in full compliance with subdivision (c)*
25 *of Section 11362.765 of the Health and Safety Code. Nothing in*
26 *this section shall permit primary caregivers to organize themselves*
27 *as cooperatives or collectives of caregivers.*

28 *18109. (a) Except as provided in Section 11362.5 of, and*
29 *Article 2.5 (commencing with Section 11362.7) of Chapter 6 of*
30 *Division 10 of, the Health and Safety Code, a person shall not sell*
31 *or provide medical marijuana to a patient or caregiver other than*
32 *at a licensed dispensing facility or through delivery from a licensed*
33 *dispensing facility.*

34 *(b) Except as provided in Section 11362.5 of, and Article 2.5*
35 *(commencing with Section 11362.7) of Chapter 6 of Division 10*
36 *of, the Health and Safety Code, a person shall not grow medical*
37 *marijuana other than at a licensed cultivation site.*

38 *(c) Except as provided in Section 11362.5 of, and Article 2.5*
39 *(commencing with Section 11362.7) of Chapter 6 of Division 10*
40 *of, the Health and Safety Code, a person shall not manufacture*

1 *medical marijuana or medical marijuana products other than a*
2 *licensed manufacturer.*

3 *(d) A person shall not transport medical marijuana from one*
4 *facility issued a conditional license to another, other than a*
5 *licensed transporter.*

6 *(e) A licensed manufacturer may obtain medical marijuana*
7 *from a licensed cultivator and may furnish medical marijuana*
8 *products to a licensed dispensary.*

9 *(f) To meet the requirements of Article 8 (commencing with*
10 *Section 111658) of Chapter 6 of Part 5 of Division 104 of the*
11 *Health and Safety Code, medical marijuana and medical marijuana*
12 *products shall be tested by a certified testing laboratory.*

13 *18110. (a) Beginning no later than July 1, 2018, the bureau*
14 *shall provide for and shall issue conditional licenses. Conditional*
15 *licenses shall be issued for all activity authorized under this*
16 *chapter, including, but not limited to, cultivation, processing,*
17 *storage, transport, and dispensing of medical marijuana.*

18 *(b) The issuance of a conditional license shall not, in and of*
19 *itself, authorize the recipient to begin business operations. The*
20 *conditional license shall certify, at a minimum, that the applicant*
21 *has paid the state conditional licensing fee, successfully passed a*
22 *criminal background check, and met the state residency*
23 *requirements.*

24 *(c) In order to begin business operations pursuant to this*
25 *chapter, an applicant shall, in addition to the conditional license,*
26 *obtain a license or permit from the local jurisdiction in which he*
27 *or she proposes to operate, following the requirements of the*
28 *applicable local ordinances.*

29 *(d) An applicant for a conditional license shall do all following:*

30 *(1) Pay the fee or fees required by this part for each license*
31 *being applied for.*

32 *(2) Register with the bureau on forms prescribed by the chief.*
33 *The forms shall contain sufficient information to identify the*
34 *licensee, including all of the following:*

35 *(A) Name of the owner or owners of a proposed facility,*
36 *including all persons or entities having an ownership interest other*
37 *than a security interest, lien, or encumbrance on property that will*
38 *be used by the applicant.*

39 *(B) The name, address, and date of birth of each principal*
40 *officer and board member.*

1 (C) *The address and telephone number of the proposed facility.*

2 (D) *In the case of a cultivation site, the GPS coordinates of the*
3 *site.*

4 (3) *Describe, in writing, the scope of business of the proposed*
5 *facility.*

6 (4) *Provide evidence that the applicant and owner have been*
7 *legal full-time residents of the state for not less than 12 months.*

8 (5) *Provide detailed operating procedures, in writing, for the*
9 *proposed facility, which shall include, but not be limited to,*
10 *procedures for facility and operational security, prevention of*
11 *diversion, employee screening, storage of medical marijuana,*
12 *personnel policies, and recordkeeping procedures.*

13 (6) *Provide evidence that the applicant has received all required*
14 *environmental permits, including compliance with the California*
15 *Environmental Quality Act, and wastewater discharge permits.*

16 (7) *Provide the applicant's fingerprint images. For purposes*
17 *of this paragraph, "applicant" means the owner or owners of a*
18 *proposed facility, including all persons or entities having an*
19 *ownership interest other than a security interest, lien, or*
20 *encumbrance on property that will be used by the facility.*

21 (A) *The applicant shall electronically submit to the Department*
22 *of Justice fingerprint images and related information required by*
23 *the Department of Justice for the purpose of obtaining information*
24 *as to the existence and content of a record of state or federal*
25 *convictions and arrests, and information as to the existence and*
26 *content of a record of state or federal convictions and arrests for*
27 *which the Department of Justice establishes that the person is free*
28 *on bail, or on his or her own recognizance, pending trial or appeal.*

29 (B) *The Department of Justice shall provide a response to the*
30 *bureau pursuant to paragraph (1) of subdivision (p) of Section*
31 *11105 of the Penal Code.*

32 (C) *The bureau shall request from the Department of Justice*
33 *subsequent notification service, as provided pursuant to Section*
34 *11105.2 of the Penal Code, for persons described in subparagraph*
35 *(A).*

36 (D) *The Department of Justice shall charge the applicant a fee*
37 *sufficient to cover the reasonable cost of processing the requests*
38 *described in this paragraph.*

39 (8) *Provide a statement, signed by the applicant under penalty*
40 *of perjury, that the information provided is true.*

1 (9) Provide any other information required by the bureau.

2 (e) Each location and each discrete use of a single location
3 shall require a conditional license. Each application for a
4 conditional license is separate and distinct, and the bureau may
5 charge a separate fee for each.

6 (f) A conditional license issued pursuant to this section shall
7 be valid for 12 months after the date of issuance. After the initial
8 12-month period, a conditional license may be renewed for a
9 period of 36 months. The bureau shall establish procedures for
10 the renewal of a conditional license.

11 (g) Notwithstanding any other law, the bureau shall not issue
12 a conditional license to an individual or entity, or for a premise,
13 against whom there is a pending state or local administrative or
14 judicial proceeding, against whom there is an action initiated by
15 a city, county, or city and county under a local ordinance, or who
16 has been determined to have violated an applicable local
17 ordinance.

18 (h) A facility or entity that is operating in conformance with
19 local zoning ordinances and other state and local requirements
20 on January 1, 2016, may continue its operations until its
21 application for conditional licensure is approved or denied
22 pursuant to this part.

23 18111. (a) Upon receipt of the application materials and fee
24 required in Section 18110, the bureau, provided the applicant has
25 not committed an act or crime constituting grounds for the denial
26 of licensure under Section 18112, may issue the conditional license
27 and send a proof of issuance to the applicant.

28 (b) The chief shall, by regulation, prescribe conditions upon
29 which a person whose conditional license has previously been
30 denied, suspended, or revoked, may be issued a conditional license.

31 18112. (a) An application for a conditional license shall be
32 denied and a conditional license shall be suspended or revoked
33 for a past felony conviction for the possession for sale, sale,
34 manufacture, transportation, or cultivation of a controlled
35 substance, a felony criminal conviction for drug trafficking, a
36 felony conviction for embezzlement, a felony conviction involving
37 fraud or deceit, or any violent or serious felony conviction pursuant
38 to subdivision (c) of Section 667.5 of, or subdivision (c) of Section
39 1192.7 of, the Penal Code. The bureau, at its discretion, may issue
40 a license to an applicant that would be otherwise denied pursuant

1 to this subdivision if the applicant has obtained a certificate of
2 rehabilitation, pursuant to Section 4852.13 of the Penal Code.

3 (b) The chief, upon his or her determination, may deny, suspend,
4 or revoke a conditional license when a conditional licensee,
5 applicant, or employee, partner, officer, or member of an entity
6 conditionally licensed does any of the following:

7 (1) Making or authorizing in any manner or by any means a
8 written or oral statement that is untrue or misleading and that is
9 known, or that by exercise of reasonable care should be known,
10 to be untrue or misleading.

11 (2) Any other conduct that constitutes fraud.

12 (3) Conduct constituting gross negligence.

13 (4) Failure to comply with the provisions of this part, Article 8
14 (commencing with Section 111658) of Chapter 6 of Part 5 of
15 Division 104 of the Health and Safety Code, or any rule or
16 regulation adopted pursuant to this part.

17 (5) Conduct that constitutes grounds for denial of licensure
18 pursuant to Chapter 2 (commencing with Section 480) of Division
19 1.5.

20 18113. (a) Upon denying, suspending, or revoking a
21 conditional license, the chief shall notify the applicant or licensee,
22 in writing, by personal service or mail addressed to the address
23 of the applicant or licensee set forth in the application. The
24 applicant or licensee shall be given a hearing within 30 days
25 thereafter if he or she files with the bureau a written request for
26 hearing. Otherwise, the denial, suspension, or revocation is deemed
27 affirmed.

28 (b) All proceedings to deny, suspend, or revoke a conditional
29 license shall be conducted pursuant to Chapter 5 (commencing
30 with Section 11500) of Part 1 of Division 3 of Title 2 of the
31 Government Code.

32 18114. An application for or renewal of a conditional license
33 shall not be approved if the bureau determines any of the following:

34 (a) The applicant fails to meet the requirements of this part or
35 any regulation adopted pursuant to this part or any applicable
36 city, county, or city and county ordinance or regulation. If a local
37 government adopts an ordinance or resolution authorizing medical
38 marijuana to be cultivated, manufactured, stored, distributed, or
39 sold within its jurisdiction, it shall submit to the bureau
40 documentation detailing their renewal requirements.

1 (b) The applicant, or any of its officers, directors, owners,
2 members, or shareholders, is a minor.

3 (c) The applicant has knowingly answered a question or request
4 for information falsely on the application form or failed to provide
5 information requested.

6 (d) The applicant, or any of its officers, directors, owners,
7 members, or shareholders has been sanctioned by the bureau, a
8 city, county, or city and county, for medical marijuana activities
9 conducted in violation of this part or any applicable local
10 ordinance or has had a license revoked in the previous five years.

11 (e) The proposed cultivation, processing, possession, storage,
12 manufacturing, testing, transporting, distribution, provision, or
13 sale of medical marijuana will violate any applicable local law
14 or ordinance.

15 (f) The applicant or the owner is unable to establish that he or
16 she has been a resident of the state for not less than 12 months.

17 18115. (a) In addition to the provisions of this part, a
18 conditional license shall be subject to the restrictions of the local
19 jurisdiction in which the facility operates or proposes to operate.
20 Even if a conditional license has been granted pursuant to this
21 part, a facility shall not operate in a local jurisdiction that prohibits
22 the establishment of that type of business.

23 (b) In addition to the provisions of this part, local jurisdictions
24 retain the power to assess fees and taxes, as applicable, on
25 facilities that are conditionally licensed pursuant to this part and
26 the business activities of those licensees.

27 18116. The bureau may adopt regulations to limit the number
28 of conditional licenses issued pursuant to this part upon a finding
29 that the otherwise unrestricted issuance of conditional licenses is
30 dangerous to the public health and safety.

31

32

CHAPTER 3. FEES

33

34 18117. (a) The conditional licensing fee shall be established
35 by the bureau at a level sufficient to fund the reasonable costs of
36 all of the following:

37 (1) Administrative costs incurred by the bureau in overseeing
38 the conditional licensing program, establishing health and safety
39 standards, and certifying the required testing laboratories.

1 (2) *Costs incurred by the bureau or the Department of Justice*
2 *for enforcement of the provisions of this part.*

3 (3) *Costs incurred by law enforcement and other public safety*
4 *entities for enforcing the provisions of this part in their jurisdiction.*

5 (b) *In addition to the conditional licensing fee required pursuant*
6 *to subdivision (a), a cultivation facility shall be assessed a fee in*
7 *a sufficient amount to cover the reasonable regulatory costs of*
8 *enforcing the environmental impact provisions relating to those*
9 *cultivation facilities. This fee shall be distributed, as necessary*
10 *and in proportion to its regulatory function, between the following*
11 *agencies responsible for enforcing the regulations relating to the*
12 *environmental impact of licensed cultivation sites:*

13 (1) *The State Water Board.*

14 (2) *The Department of Fish and Wildlife.*

15 (3) *The Department of Forestry and Fire Protection.*

16 (4) *The Department of Pesticide Regulation.*

17 (5) *The Department of Food and Agriculture.*

18 (6) *Local law enforcement.*

19 18118. (a) *The Medical Marijuana Regulation Fund is hereby*
20 *established within the State Treasury. Notwithstanding Section*
21 *16305.7 of the Government Code, the fund shall include any*
22 *interest and dividends earned on the money in the fund.*

23 (b) *Except as provided in subdivision (c), all fees collected*
24 *pursuant to this part shall be deposited into the Medical Marijuana*
25 *Regulation Fund. Notwithstanding Section 13340 of the*
26 *Government Code, all moneys within the fund are hereby*
27 *continuously appropriated, without regard to fiscal year, to the*
28 *bureau solely for the purposes of fully funding and administering*
29 *this part, including, but not limited to, the costs incurred by the*
30 *bureau for its administrative expenses.*

31 (c) *The Special Account for Environmental Enforcement is*
32 *hereby established as an account within the Medical Marijuana*
33 *Regulation Fund. Notwithstanding Section 16305.7 of the*
34 *Government Code, the account shall include any interest and*
35 *dividends earned on the money in the account. All fees collected*
36 *pursuant to subdivision (b) of Section 18112 shall be deposited in*
37 *this account. Notwithstanding Section 13340 of the Government*
38 *Code, all moneys within the fund are hereby continuously*
39 *appropriated, without regard to fiscal year, to the bureau for*
40 *distribution to the entities listed in subdivision (b) of Section 18117*

1 to be used to enforce the environmental regulation of licensed
2 cultivation sites.

3 (d) All moneys collected as a result of penalties imposed under
4 this part shall be deposited directly into the General Fund, to be
5 available upon appropriation.

6 (e) The bureau may establish and administer a grant program
7 to allocate moneys from the Medical Marijuana Regulation Fund
8 to state and local entities for the purpose of assisting with medical
9 marijuana regulation and the enforcement of this part and other
10 state and local laws applicable to licensees.

11 18119. (a) A facility issued a conditional license shall not
12 acquire, cultivate, process, possess, store, manufacture, distribute,
13 sell, deliver, transfer, transport, or dispense medical marijuana
14 for any purpose other than those authorized by Article 2.5
15 (commencing with Section 11362.7) of Chapter 6 of Division 10
16 of the Health and Safety Code.

17 (b) A licensed dispensing facility shall not acquire, cultivate,
18 process, possess, store, manufacture, distribute, sell, deliver,
19 transfer, transport, or dispense medical marijuana plants or
20 medical marijuana products except through a licensed cultivation
21 site or a licensed manufacturer.

22

23 CHAPTER 4. TRANSPORTATION OF MEDICAL MARIJUANA

24

25 18120. (a) A licensed transporter shall ship only to facilities
26 issued a conditional license and only in response to a request for
27 a specific quantity and variety from those facilities.

28 (b) Prior to transporting medical marijuana products, a licensed
29 transporter shall do both of the following:

30 (1) Complete a shipping manifest using a form prescribed by
31 the bureau.

32 (2) Securely transmit a copy of the manifest to the licensee that
33 will receive the medical marijuana product, and to the bureau,
34 prior to transport.

35 (c) The licensed transporter making the shipment and the
36 licensee receiving the shipment shall maintain each shipping
37 manifest and make it available to local code enforcement officers,
38 any other locally designated enforcement entity, and the bureau
39 upon request.

40 18121. (a) Transported medical marijuana products shall:

1 (1) *Be transported only in a locked, safe, and secure storage*
2 *compartment that is securely affixed to the interior of the*
3 *transporting vehicle.*

4 (2) *Not be visible from outside the vehicle.*

5 (b) *A vehicle transporting medical marijuana products shall*
6 *travel directly from one licensed facility to another licensed facility*
7 *authorized to receive the shipment.*

8 18122. (a) *All transport vehicles shall be staffed with a*
9 *minimum of two employees. At least one transport team member*
10 *shall remain with the vehicle at all times when the vehicle contains*
11 *medical marijuana.*

12 (b) *Each transport team member shall have access to a secure*
13 *form of communication by which each member can communicate*
14 *with personnel at the licensed facility at all times when the vehicle*
15 *contains medical marijuana.*

16 (c) *Each transport team member shall possess documentation*
17 *of licensing and a government-issued identification card at all*
18 *times when transporting or delivering medical marijuana and shall*
19 *produce it to any representative of the bureau or law enforcement*
20 *upon request.*

21 (d) *This part shall not be construed to authorize or permit a*
22 *licensee to transport, or cause to be transported, medical*
23 *marijuana or medical marijuana products outside the state.*

24 18123. *A local jurisdiction shall not prevent transportation*
25 *through or to a facility issued a conditional license, by a*
26 *conditionally licensed transporter who acts in compliance with*
27 *this part.*

28

29

CHAPTER 5. ENFORCEMENT

30

31 18124. *A state agency is not required by this section to enforce*
32 *a city, county, city and county, or local law, ordinance, rule, or*
33 *regulation regarding the site or operation of a facility issued a*
34 *conditional license.*

35 18125. *The bureau may assist state taxation authorities in the*
36 *development of uniform policies for the state taxation of licensees.*

37 18126. (a) *For facilities issued a conditional license that are*
38 *located within the incorporated area of a city, the city shall have*
39 *full power and authority to enforce this part and Article 8*
40 *(commencing with Section 111658) of Chapter 6 of Part 5 of*

1 *Division 104 of the Health and Safety Code and the rules,*
2 *regulations, and standards promulgated by the bureau. The city*
3 *shall further assume complete responsibility for any regulatory*
4 *function relating to those licensees within the city limits that would*
5 *otherwise be performed by the county or any county officer or*
6 *employee, without liability, cost, or expense to the county.*

7 *(b) For licensed facilities located within the unincorporated*
8 *area of a county, the county shall have full power and authority*
9 *to enforce this part and Article 8 (commencing with Section*
10 *111658) of Chapter 6 of Part 5 of Division 104 of the Health and*
11 *Safety Code and the rules, regulations, and standards promulgated*
12 *by the bureau.*

13 *18127. (a) A willful violation of Section 18110, including an*
14 *attempt to falsify information on an application or to otherwise*
15 *defraud or mislead a state or local agency in the course of the*
16 *application process, shall be punishable by a civil fine of up to*
17 *thirty-five thousand dollars (\$35,000) for each individual violation.*

18 *(b) A technical violation of Section 18110 shall, at the bureau's*
19 *discretion, be punishable by a civil fine of up to ten thousand*
20 *dollars (\$10,000) for each individual violation.*

21 *18128. A district attorney, county counsel, city attorney, or*
22 *city prosecutor may bring an action to enjoin a violation or the*
23 *threatened violation of any provision of this part, including, but*
24 *not limited to, a licensee's failure to correct objectionable*
25 *conditions following notice or as a result of a rule promulgated*
26 *pursuant to this part. The action shall be brought in the county in*
27 *which the violation occurred or is threatened to occur. A*
28 *proceeding brought pursuant to this part shall conform to the*
29 *requirements of Chapter 3 (commencing with Section 525) of Title*
30 *7 of Part 2 of the Code of Civil Procedure. Nothing in this section*
31 *shall diminish the authority of a local government to take requisite*
32 *enforcement actions pertaining to its own ordinances or*
33 *regulations.*

34 *18129. Nothing in this part shall prevent a city or other local*
35 *governing body from taking action as specified in Section 11362.83*
36 *of the Health and Safety Code.*

37 *18130. This part shall not be construed to limit a law*
38 *enforcement agency's ability to investigate unlawful activity in*
39 *relation to a facility issued a conditional license.*

CHAPTER 6. CULTIVATION SITES

18131. A licensed cultivation site shall not be located in an area zoned residential.

18132. (a) The bureau shall notify local law enforcement of all conditional licenses issues for cultivation sites in that jurisdiction.

(b) A licensed cultivation site shall display the state license in a manner so as to be available and easily read at the location.

(c) The bureau shall work with and assist state and local law enforcement to eliminate trespass grows in the state.

18133. (a) No later than January 1, 2022, all medical marijuana grown, produced, distributed, and sold in the state shall meet the certified organic standards.

(b) The bureau shall establish appellations of origin for marijuana grown in California.

18134. The bureau shall work with county agricultural commissioners, offices to provide all the information and forms required for conditional licensure as a cultivation site in a single location, including state licensure, local requirements in that jurisdiction, and environmental requirements.

CHAPTER 7. REGULATION OF MEDICAL MARIJUANA

18136. (a) A person shall not distribute any form of advertising for physician recommendations for medical marijuana in California unless the advertisement bears the following notice to consumers:

NOTICE TO CONSUMERS: The Compassionate Use Act of 1996 ensures that seriously ill Californians have the right to obtain and use marijuana for medical purposes where medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of medical marijuana. Physicians are licensed and regulated by the Medical Board of California and arrive at the decision to make this recommendation in accordance with accepted standards of medical responsibility.

1 (b) Advertising for physician recommendations for medical
2 marijuana shall meet all requirements of Section 651. Price
3 advertising shall not be fraudulent, deceitful, or misleading,
4 including statements or advertisements of bait, discounts,
5 premiums, gifts, or statements of a similar nature.

6 18137. (a) A facility issued a conditional license shall
7 implement sufficient security measures to both deter and prevent
8 unauthorized entrance into areas containing marijuana and theft
9 of marijuana at those facilities. These security measures shall
10 include, but not be limited to, all of the following:

11 (1) Preventing individuals from remaining on the premises of
12 the facility if they are not engaging in activity expressly related to
13 the operations of the facility.

14 (2) Establishing limited access areas accessible only to
15 authorized facility personnel.

16 (3) Storing all finished marijuana in a secured and locked room,
17 safe, or vault, and in a manner as to prevent diversion, theft, and
18 loss.

19 (b) A facility issued a conditional license shall notify appropriate
20 law enforcement authorities within 24 hours after discovering any
21 of the following:

22 (1) Discrepancies identified during inventory.

23 (2) Diversion, theft, loss, or any criminal activity involving the
24 facility or a facility agent.

25 (3) The loss or unauthorized alteration of records related to
26 marijuana, registered qualifying patients, personal caregivers, or
27 facility agents.

28 (4) Any other breach of security.

29 (c) A licensed cultivation site shall weigh, inventory, and
30 account for on video, all medical marijuana to be transported
31 prior to its leaving its origination location. Within eight hours
32 after arrival at the destination, the licensed dispensing facility
33 shall reweigh, reinventory, and account for on video, all
34 transported marijuana.

35 18138. (a) The bureau shall require an annual audit of all
36 facilities issued a conditional license to cultivate, manufacture,
37 process, transport, store, or sell medical marijuana. The
38 reasonable costs of the audit shall be paid for by the licensee.

39 (b) Completed audit reports shall also be submitted by the
40 licensee to local code enforcement offices, or the appropriate

1 *locally designated enforcement entity, within 30 days of the*
2 *completion of the audit.*

3 *(c) It is the responsibility of each facility issued a conditional*
4 *license to develop a robust quality assurance protocol that includes*
5 *all of the provisions of this part.*

6 *18139. (a) A laboratory certified by the bureau to perform*
7 *random sample testing of medical marijuana products shall not*
8 *acquire, process, possess, store, transfer, transport, or dispense*
9 *medical marijuana for any purpose other than those authorized*
10 *by Article 2.5 (commencing with Section 11362.7) of Chapter 6 of*
11 *Division 10 of the Health and Safety Code. All transfer or*
12 *transportation shall be performed pursuant to a specified chain*
13 *of custody protocol.*

14 *(b) A laboratory certified by the bureau to perform random*
15 *sample testing of medical marijuana products shall not acquire,*
16 *process, possess, store, transfer, transport, or dispense medical*
17 *marijuana plants or medical marijuana products except through*
18 *a patient, primary caregiver, or a facility issued a conditional*
19 *license. All transfer or transportation shall be performed pursuant*
20 *to a specified chain of custody protocol.*

21 *18140. (a) Information identifying the names of patients, their*
22 *medical conditions, or the names of their primary caregivers*
23 *received and contained in records kept by the bureau for the*
24 *purposes of administering this part are confidential and exempt*
25 *from the California Public Records Act (Chapter 3.5 (commencing*
26 *with Section 6250) of Division 7 of Title 1 of the Government Code)*
27 *and are not subject to disclosure to an individual or private entity,*
28 *except as necessary for authorized employees of the state to*
29 *perform official duties pursuant to this part.*

30 *(b) (1) Nothing in this section shall preclude any of the*
31 *following:*

32 *(A) Bureau employees notifying state or local agencies about*
33 *information submitted to the bureau that the employee suspects is*
34 *falsified or fraudulent.*

35 *(B) Notifications from the bureau to state or local agencies of*
36 *apparent violations of this part or an applicable local ordinance.*

37 *(C) Verification of requests by state or local agencies to confirm*
38 *licenses and certificates issued by the bureau or other state agency.*

1 (D) Providing information requested pursuant to a court order
2 or subpoena issued by a court, an administrative agency, or local
3 governing body authorized by law to issue subpoenas.

4 (2) Information shall not be disclosed beyond what is necessary
5 to achieve the goals of a specific investigation or notification or
6 the parameters of a specific court order or subpoena.

7 18141. (a) The actions of a licensee, its employees, and its
8 agents, that are permitted pursuant to a conditional license and
9 that are conducted in accordance with the requirements of this
10 part and regulations adopted pursuant to this part, are not unlawful
11 under state law and shall not be an offense subject to arrest or
12 prosecution.

13 (b) The actions of a person who, in good faith and upon
14 investigation, allows his or her property to be used by a licensee,
15 its employees, and its agents, as permitted pursuant to a conditional
16 license, are not unlawful under state law and shall not be an
17 offense subject to arrest or prosecution.

18 (c) This section shall not be deemed to limit the authority or
19 remedies of a city, county, or city and county under any provision
20 of law, including, without limitation, Section 7 of Article XI of the
21 California Constitution.

22 18142. (a) A licensee shall not cultivate, process, store,
23 manufacture, transport, or sell medical marijuana in the state
24 unless accurate records are kept at the licensed premises of the
25 growing, processing, storing, manufacturing, transporting, or
26 selling by the licensee in the state. These records shall include the
27 name and address of the supplier of marijuana received or
28 possessed by the licensee, the location at which the marijuana was
29 cultivated, the amount of marijuana received, the form in which
30 it is received, the name of the employee receiving it, and the date
31 of receipt. These records shall also include receipts for all
32 expenditures incurred by the licensee and banking records, if any,
33 for all funds obtained or expended in the performance of any
34 activity under the authority of the conditional license. A licensee
35 who has a conditional license for more than one premises may
36 keep all records at one of the conditionally licensed premises.
37 Required records shall be kept for a period of seven years from
38 the date of the transaction.

39 (b) The bureau and an appropriate state or local agency may
40 examine the books and records of a conditional licensee and may

1 visit and inspect the premises of a conditional licensee, as the
2 bureau or state or local agency deems necessary to perform its
3 duties under this part.

4 (c) Books or records requested by the bureau or an appropriate
5 state or local agency shall be provided by the conditional licensee
6 no later than five business days after the request is made.

7 (d) The bureau or a state or local agency may enter and inspect
8 the premises of a facility issued a conditional license between the
9 hours of 8 a.m. and 8 p.m. on any day that the facility is open, or
10 at any reasonable time, to ensure compliance and enforcement of
11 the provisions of this part or a local ordinance.

12 (e) If a licensee or an employee of a licensee refuses, impedes,
13 obstructs, or interferes with an inspection pursuant to subdivision
14 (d), the conditional license may be summarily suspended and the
15 bureau shall directly commence proceedings for the revocation of
16 the conditional license.

17 (f) If a licensee or an employee of a licensee fails to maintain
18 or provide the books and records required pursuant to this section,
19 the licensee shall be subject to a civil fine of fifteen thousand
20 dollars (\$15,000) per individual violation.

21 SEC. 6. Section 23028 is added to the Government Code, to
22 read:

23 23028. (a) (1) In addition to any authority otherwise provided
24 by law, the board of supervisors of a county or the city council of
25 a city may impose, by ordinance, a tax on the privilege of
26 cultivating, dispensing, producing, processing, preparing, storing,
27 providing, donating, selling, or distributing marijuana by a licensee
28 operating pursuant to Chapter 18 (commencing with Section
29 26000) of Division 9 of the Business and Professions Code. The
30 tax may be imposed for general governmental purposes or for
31 purposes specified in the ordinance by the board of supervisors
32 or city council.

33 (2) The board of supervisors or city council shall specify in the
34 ordinance proposing the tax the activities subject to the tax, the
35 applicable rate or rates, the method of apportionment, and the
36 manner of collection of the tax. A tax imposed pursuant to this
37 section is a tax and not a fee or special assessment, and the tax is
38 not required to be apportioned on the basis of benefit to any person
39 or property or be applied uniformly to all taxpayers or all real
40 property.

1 (3) A tax imposed by a city or county pursuant to this section
2 may include a transactions and use tax imposed solely for
3 marijuana or marijuana products, which shall otherwise conform
4 to Part 1.6 (commencing with Section 7251) of Division 2 of the
5 Revenue and Taxation Code. Notwithstanding Section 7251.1 of
6 the Revenue and Taxation Code, the tax may be imposed at any
7 rate specified by the board of supervisors or city council, and the
8 tax rate authorized by this section shall not be considered for
9 purposes of the combined tax rate limitation established by that
10 section.

11 (4) The tax authorized by this section may be imposed upon any
12 or all of the activities set forth in paragraph (1), regardless of
13 whether the activity is undertaken individually, collectively, or
14 cooperatively, and regardless of whether the activity is for
15 compensation or gratuitously, as determined by the board of
16 supervisors or city council.

17 (5) The board of supervisors shall specify whether the tax
18 applies throughout the entire county or within the unincorporated
19 area of the county.

20 (b) In addition to any other method of collection authorized by
21 law, the board of supervisors or city council may provide for the
22 collection of the tax imposed pursuant to this section in the same
23 manner, and subject to the same penalties and priority of lien, as
24 other charges and taxes fixed and collected by the city or county.

25 (c) Any tax imposed pursuant to this section shall be subject to
26 applicable voter approval requirements imposed by law.

27 (d) For purposes of this section, “marijuana” shall have the
28 meanings set forth in Section 18100 of the Business and Professions
29 Code.

30 (e) This section does not limit or prohibit the levy or collection
31 or any other fee, charge, or tax, or any license or service fee or
32 charge upon, or related to, the activities set forth in subdivision
33 (a) as otherwise provided by law. This section shall not be
34 construed as a limitation upon the taxing authority of a city or
35 county as provided law.

36 SEC. 7. Section 11362.775 of the Health and Safety Code is
37 amended to read:

38 11362.775. (a) Qualified patients, persons with valid
39 identification cards, and the designated primary caregivers of
40 qualified patients and persons with identification cards, who

1 ~~associate within the State of California in order collectively or~~
2 ~~cooperatively to cultivate marijuana for medical purposes, shall~~
3 ~~not solely on the basis of that fact be subject to state criminal~~
4 ~~sanctions under Section 11357, 11358, 11359, 11360, 11366,~~
5 ~~11366.5, or 11570.~~

6 *(b) An individual employee, officer, or board member of a*
7 *facility issued a conditional license pursuant to Part 5*
8 *(commencing with Section 18100) of Division 7 of the Business*
9 *and Professions Code shall not be subject to state criminal*
10 *sanctions under Section 11357, 11358, 11359, 11360, 11366,*
11 *11366.5, or 11570 and any successor statutes, based solely on*
12 *holding a conditional license, for the possession, cultivation,*
13 *processing, packaging, storage, transportation, sale, or distribution*
14 *of medical marijuana to a facility holding a conditional license*
15 *pursuant to Part 5 (commencing with Section 18100) of Division*
16 *7 of the Business and Professions Code or directly to a qualified*
17 *patient, a person with a valid identification card, or the designated*
18 *primary caregiver of a qualified patient or person with a valid*
19 *identification card, within the state, unless the information*
20 *contained on the licensing paperwork is false or falsified, the*
21 *license has been obtained by means of fraud, or the person is*
22 *otherwise in violation of Part 5 (commencing with Section 18100)*
23 *of Division 7 of the Business and Professions Code.*

24 *(c) This section shall not diminish the protections of Section*
25 *18141 of the Business and Professions Code.*

26 *SEC. 8. Article 8 (commencing with Section 111658) is added*
27 *to Chapter 6 of Part 5 of Division 104 of the Health and Safety*
28 *Code, to read:*

29
30
31

Article 8. Medical Marijuana

32 *111658. For purpose of this article, the following definitions*
33 *shall apply:*

34 *(a) "Bureau" means the Bureau of Medical Marijuana*
35 *Regulations in the Department of Consumer Affairs.*

36 *(b) "Certified testing laboratories" means a laboratory that is*
37 *certified by the bureau to perform random sample testing of*
38 *medical marijuana for patients, primary caregivers, and facilities*
39 *issued conditional licenses pursuant to Part 5 (commencing with*
40 *Section 18100) of Division 7 of the Business and Professions Code,*

1 pursuant to the certification standards for those facilities
2 promulgated by the bureau.

3 (c) “Edible medical marijuana product” means medical
4 marijuana or a medical marijuana-derived product that is ingested
5 or meant to be ingested through the mouth and into the digestive
6 system.

7 (d) “Marijuana” means all parts of the plant *Cannabis sativa*
8 *L. sativa*, *cannabis indica*, or *cannabis ruderalis*, whether growing
9 or not; the seeds thereof; the resin, whether crude or purified,
10 extracted from any part of the plant; and every compound,
11 manufacture, salt, derivative, mixture, or preparation of the plant,
12 its seeds, or resin. “Marijuana” does not include the mature stalks
13 of the plant, fiber produced from the stalks, oil or cake made from
14 the seeds of the plant, any other compound, manufacture, salt,
15 derivative, mixture, or preparation of the mature stalks (except
16 the resin extracted therefrom), fiber, oil, or cake, or the sterilized
17 seed of the plant which is incapable of germination. “Marijuana”
18 also means marijuana, as defined by Section 11018.

19 (e) “Labor peace agreement” means an agreement between an
20 entity and a bona fide labor organization that, at a minimum,
21 protects the state’s proprietary interests by prohibiting labor
22 organizations and members from engaging in picketing, work
23 stoppages, boycotts, and any other economic interference with the
24 applicant’s business. This agreement means that the applicant has
25 agreed not to disrupt efforts by the bona fide labor organization
26 to communicate with, and attempt to organize and represent, the
27 applicant’s employees.

28 (f) “Representative samples” means samples taken from each
29 batch or shipment of medical marijuana received from a licensed
30 cultivation site or any other source if intended for sale.

31 111659. The bureau, by July 1, 2017, shall accomplish both
32 of the following:

33 (a) Establish quality assurance protocols to ensure uniform
34 testing standards for all medical marijuana sold via dispensaries
35 or other facilities, or cultivated or manufactured by facilities, that
36 are issued a conditional license pursuant to Part 5 (commencing
37 with Section 18100) of Division 7 of the Business and Professions
38 Code.

39 (b) In consultation with outside entities at its discretion, develop
40 a list of certified testing laboratories that can perform uniform

1 *testing in compliance with this article, and post that list on its*
2 *Internet Web site.*

3 *111660. (a) A facility issued a conditional license pursuant*
4 *to Part 5 (commencing with Section 18100) of Division 7 of the*
5 *Business and Professions Code shall bear the responsibility for*
6 *contracting with certified testing laboratories for regular,*
7 *systematic testing of representative samples of all medical*
8 *marijuana cultivated or intended for sale or distribution, and shall*
9 *bear the cost of that testing.*

10 *(b) A facility issued a conditional license pursuant to Part 5*
11 *(commencing with Section 18100) of Division 7 of the Business*
12 *and Professions Code shall maintain records of testing reports*
13 *for seven years, either on site in a digital format or at a secure*
14 *off-site location in either digital or paper format. These facilities*
15 *shall provide results of test reports to local code enforcement*
16 *officers, any other locally designated enforcement entity, and the*
17 *bureau upon request.*

18 *111661. Quality assurance protocols shall be required between*
19 *all licensed cultivation sites, licensed manufacturers, and licensed*
20 *dispensing facilities to guarantee safe and reliable medicinal*
21 *marijuana delivery to all patients. These quality assurance*
22 *protocols shall include:*

23 *(a) Providing supplier information to dispensaries in order for*
24 *recall procedures to be implemented, if and when necessary.*

25 *(b) Safety testing of all medical marijuana prior to packaging*
26 *for sale and patient exposure to identify and eliminate*
27 *microbiological contaminants and chemical residue.*

28 *(c) Labeling of all medical marijuana and medical marijuana*
29 *products that shall, at a minimum, include the following:*

30 *(1) List of pharmacologically active ingredients, including, but*
31 *not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD)*
32 *content, clear recommended dosage, and the size or volume of the*
33 *recommended dose.*

34 *(2) Clear indication, in bold font, that the product contains*
35 *medical marijuana.*

36 *(3) The statement “FOR MEDICAL USE ONLY. KEEP OUT*
37 *OF REACH OF CHILDREN AND ANIMALS” in bold print.*

38 *(4) Identification of the source and date of cultivation and*
39 *manufacture.*

1 (5) *The name and location of the dispensary providing the*
2 *product.*

3 (6) *The date of sale.*

4 (7) *Any other requirements set by the bureau.*

5 111662. *For purposes of this article, edible medical marijuana*
6 *products are deemed to be unadulterated food products. In addition*
7 *to the quality assurance standards provided in Section 111661,*
8 *all edible medical marijuana products shall comply with the*
9 *following requirements:*

10 (a) *Baked edible medical marijuana products, including, but*
11 *not limited to, brownies, bars, cookies, and cakes, tinctures, and*
12 *other edible medical marijuana products that do not require*
13 *refrigeration or hot holding may be manufactured, sold, or*
14 *otherwise distributed at facilities issued a conditional license*
15 *pursuant to Part 5 (commencing with Section 18100) of Division*
16 *7 of the Business and Professions Code.*

17 (b) *A facility issued a conditional license pursuant to Part 5*
18 *(commencing with Section 18100) of Division 7 of the Business*
19 *and Professions Code shall have an owner or employee who has*
20 *successfully passed an approved and accredited food safety*
21 *certification examination as specified in Sections 113947.1,*
22 *113947.2, and 113947.3 prior to selling, manufacturing, or*
23 *distributing edible medical marijuana products requiring*
24 *refrigeration or hot holding.*

25 (c) *Individuals manufacturing or selling edible medical*
26 *marijuana products shall thoroughly wash their hands before*
27 *commencing production and before handling finished edible*
28 *medical marijuana products.*

29 (d) *All edible medical marijuana products sold for direct*
30 *consumption and infused with marijuana concentrate shall be*
31 *individually wrapped at the original point of preparation. The*
32 *products shall be packaged in a fashion that does not exceed a*
33 *single dosage for one individual.*

34 (e) *Products containing tetrahydrocannabinol (THC) shall be*
35 *prepared in compliance with maximum potency standards for THC*
36 *and THC concentrates set forth in the bureau's regulations.*

37 (f) *Prior to sale or distribution at a licensed dispensing facility,*
38 *edible medical marijuana products shall be labeled and in an*
39 *opaque and tamper evident package. Labels and packages of edible*
40 *medical marijuana products shall meet the following requirements:*

1 (1) *Edible medical marijuana packages and labels shall not be*
2 *made to be attractive to children.*

3 (2) *All edible medical marijuana product labels shall include*
4 *the following information, prominently displayed and in a clear*
5 *and legible font:*

6 (A) *Manufacture date and source.*

7 (B) *The statement “KEEP OUT OF REACH OF CHILDREN*
8 *AND ANIMALS” in bold print.*

9 (C) *The statement “FOR MEDICAL USE ONLY.”*

10 (D) *Net weight of medical marijuana in package.*

11 (E) *A warning if nuts or other known allergens are used and*
12 *shall include the total weight, in ounces or grams, of medical*
13 *marijuana in the package.*

14 (F) *List of pharmacologically active ingredients, including, but*
15 *not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD)*
16 *content, clear recommended dosage, and the size or volume of*
17 *recommended dose.*

18 (G) *Any other requirement set by the bureau.*

19 (g) *Photos or images of food are not allowed on edible medical*
20 *marijuana product packages or labels.*

21 (h) *Only generic food names may be used to describe edible*
22 *medical marijuana products.*

23 *SEC. 9. On or before July 1, 2016, the State Board of*
24 *Equalization shall compile a report on the actual tax collected on*
25 *the sale of medical marijuana, using the most current data*
26 *available. The report should also include expected tax revenues,*
27 *under the existing tax structure, for the years 2016 to 2021,*
28 *inclusive. This report shall be submitted to the Legislature and the*
29 *Governor’s Office pursuant to Section 9795 of the Government*
30 *Code.*

31 *SEC. 10. The provisions of this act are severable. If any*
32 *provision of this act or its application is held invalid, that invalidity*
33 *shall not affect other provisions or applications that can be given*
34 *effect without the invalid provision or application.*

35 *SEC. 11. The Legislature finds and declares that Section 5 of*
36 *this act imposes a limitation on the public’s right of access to the*
37 *meetings of public bodies or the writings of public officials and*
38 *agencies within the meaning of Section 3 of Article I of the*
39 *California Constitution. Pursuant to that constitutional provision,*
40 *the Legislature makes the following findings to demonstrate the*

1 *interest protected by this limitation and the need for protecting*
 2 *that interest:*

3 *The limitation imposed under this act is necessary for purposes*
 4 *of compliance with the federal Health Insurance Portability and*
 5 *Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the*
 6 *Confidentiality of Medical Information Act (Part 2.6 (commencing*
 7 *with Section 56) of Division 1 of the Civil Code), and the Insurance*
 8 *Information and Privacy Protection Act (Article 6.6 (commencing*
 9 *with Section 791) of Part 2 of Division 1 of the Insurance Code).*

10 *SEC. 12. No reimbursement is required by this act pursuant*
 11 *to Section 6 of Article XIII B of the California Constitution because*
 12 *the only costs that may be incurred by a local agency or school*
 13 *district will be incurred because this act creates a new crime or*
 14 *infraction, eliminates a crime or infraction, or changes the penalty*
 15 *for a crime or infraction, within the meaning of Section 17556 of*
 16 *the Government Code, or changes the definition of a crime within*
 17 *the meaning of Section 6 of Article XIII B of the California*
 18 *Constitution.*

19 ~~SECTION 1. It is the intent of the Legislature to enact~~
 20 ~~legislation that would do all of the following:~~

21 ~~(1) Protect the residents of California, private property, public~~
 22 ~~lands, and waterways from trespass cultivation of medical~~
 23 ~~marijuana.~~

24 ~~(2) Reaffirm and clarify aspects of the Medical Marijuana~~
 25 ~~Program Act.~~

26 ~~(3) Regulate the cultivation of medical marijuana and authorize~~
 27 ~~the collection of fees.~~

28 ~~(4) Authorize and appropriate adequate funding for the Board~~
 29 ~~of Equalization to undertake a study of the results of legislation~~
 30 ~~recently passed in Colorado and the State of Washington in order~~
 31 ~~to make recommendations on the best way to levy and collect fees~~
 32 ~~to regulate the cultivation and sale of medical marijuana.~~

33 ~~(5) Authorize the creation of appellations of origin for medical~~
 34 ~~marijuana cultivated in California.~~